

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 725 City of Jacksonville, Duval County  
**SPONSOR(S):** Local Government Affairs Subcommittee; Adkins  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	12 Y, 0 N, As CS	Darden	Miller
2) Business & Professions Subcommittee	12 Y, 0 N	Butler	Luczynski
3) Local & Federal Affairs Committee			

### SUMMARY ANALYSIS

Kiteboarding and kitesurfing are prohibited within an area extending one mile from the centerline of an airport runway.

The bill provides an exception to this prohibition for kiteboarding and kitesurfing in Huguenot Memorial Park, in the city of Jacksonville, Duval County. The park is within an area extending one mile from an active airport runway. The bill will generate additional revenue for the City of Jacksonville in the form of increased park fees and will benefit the manufacturers and sellers of sporting equipment by bolstering demand.

This bill will take effect upon becoming law.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Regulations on Kiteboarding and Kitesurfing

Kiteboarding and kitesurfing together are defined by statute as an “activity in which a kiteboard or surfboard is tethered to a kite so as to harness the power of the wind and propel the board across a body of water.”<sup>1</sup> Kite is further defined for the purposes of the statute as having the same meaning as under Federal regulations.<sup>2</sup>

Federal Aviation Administration (FAA) regulations concerning kites apply to any kite that weighs more than five pounds and is intended to be attached to a rope or cable.<sup>3</sup> Federal regulations prohibit the use of kites in the area less than 500 feet from the base of any cloud, more than 500 feet above the surface of the earth, in an area where ground visibility is less than three miles, or within five miles of the boundary of any airport.<sup>4</sup>

Kiteboarders and kitesurfers are propelled by wind-power and are tethered to kites with lines of sixty to seventy feet.<sup>5</sup> Kiteboarding and kitesurfing are not allowed in the federally restricted areas, unless the participant receives a waiver from the FAA.<sup>6</sup>

Federal regulations require the mooring line of a kite to have colored pennants or streamers, visible for one mile, every fifty feet starting at 150 feet above the earth’s surface.<sup>7</sup> Further regulations restrict the use of kites between sunset and sunrise, requiring the mooring line to be lighted in the same manner as required for obstructions to air navigation.<sup>8</sup> Florida law may be more restrictive on this matter, prohibiting persons from engaging in “water skiing... or any similar activity” from thirty minutes after sunset to thirty minutes before sunrise.<sup>9</sup>

Kiteboarding and kitesurfing are also prohibited by Florida law near airports. Kiteboarding and kitesurfing are prohibited within an area of one-half mile from a direct line extending one mile from the centerline of an airport runway unless otherwise permitted by federal law.<sup>10</sup>

A person or entity may apply and be granted waiver from the FAA to operate a kite, such as the one used for kiteboarding or kite surfing, within five miles of an airport. Under s. 327.37(6), F.S., if a person or entity is granted such a waiver by the FAA, then that person or entity would also be exempted from the prohibition on kiteboarding and kitesurfing near an airport in s. 327.37(6), F.S.

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<sup>1</sup> s. 327.02, F.S.

<sup>2</sup> s. 327.02(14), F.S.; Cf. 14 C.F.R. s.101.1(2) (2015) (“any kite that weighs more than 5 pounds and is intended to be flown at the end of a rope or cable”).

<sup>3</sup> 14 C.F.R. s. 101.1(2) (2015).

<sup>4</sup> 14 C.F.R. s. 101.13 (2015).

<sup>5</sup> Matt Soergel, *Huguenot Park likely to remain a haven for kiteboarders, despite new state law*, FLORIDA TIMES-UNION (June 17, 2014), <http://jacksonville.com/news/metro/2014-06-17/story/huguenot-park-likely-remain-haven-kiteboarders-despite-new-state-law>.

<sup>6</sup> 14 C.F.R. s. 101.5 (2015); *see also* Federal Aviation Administration, *Air Traffic Bulletin* (Apr. 2012) (explaining waiver process for parasailing), *available at* [http://www.faa.gov/air\\_traffic/publications/media/ATB2012-2.pdf](http://www.faa.gov/air_traffic/publications/media/ATB2012-2.pdf).

<sup>7</sup> 14 C.F.R. s. 101.17 (2015).

<sup>8</sup> *Id.*

<sup>9</sup> s. 327.37(2)(a), F.S., (kiteboarding and kitesailing are not specifically enumerated, but may be considered “similar activity”).

<sup>10</sup> s. 327.37(6), F.S.

## Kiteboarding in Huguenot Memorial Park

Huguenot Memorial Park is located in northeast Jacksonville, nestled between Fort George Inlet to the north, the Atlantic Ocean to the east, and the St. Johns River to the south.<sup>11</sup> The park has been described as the “prime kiteboarding spot in Northeast Florida.”<sup>12</sup> The park is located across the St. Johns River from Naval Station Mayport.<sup>13</sup> The runway at Naval Station Mayport is located on the northern end of the installation.<sup>14</sup>

Areas of Huguenot Memorial Park within one mile of the base’s runway include a flat-water lagoon area that had been frequently used for training beginners in the sport.<sup>15</sup> This lagoon area, referred to “The Pond,” is seen by the kiteboarding community as an important space for ensuring beginners can learn the sport without posing excessive risk to themselves and other beachgoers.<sup>16</sup> Areas of the park where kiteboarding are still permitted are seen as too challenging for beginners and present a heightened risk of injury.<sup>17</sup>

Officials at Naval Station Mayport have not seen kiteboarding and kitesurfing as a cause for concern, stating the topic has “never been an issue on our scope.”<sup>18</sup> Officials from the base have since reiterated this position, while also noting the importance of continued monitoring “to ensure the safety, health, and welfare of our community, and the operational integrity of the installation mission.”<sup>19</sup>

### Effect of Proposed Changes

The bill provides an exemption to s. 327.37(6), F.S., for kitesurfing and kiteboarding in Huguenot Memorial Park, in the City of Jacksonville, Duval County. The bill also describes the boundaries of Huguenot Memorial Park and surrounding waters.

To the extent that kitesurfing and kiteboarding are exempted by this bill, federal law still prohibits these activities within five miles of the boundary of any airport. Persons or entities who wish to engage in kitesurfing or kiteboarding in Huguenot Memorial Park within five miles of the boundary of Naval Station Mayport, must apply for and be granted a waiver, as required by federal law, from the FAA.

According to the economic impact statement (EIS), the bill will result in increased usage of Huguenot Memorial Park, resulting in the collection of additional park fees and thereby increasing revenues for the City of Jacksonville. The EIS also states the bill would benefit water sports vendors and other outdoor activity equipment manufacturers and retailers by increasing demand for kiteboarding and kitesurfing paraphernalia.

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<sup>11</sup> See City of Jacksonville, *Huguenot Memorial Park*, <http://www.coj.net/departments/parks-and-recreation/recreation-and-community-programming/huguenot-memorial-park.aspx> (last visited Mar. 3, 2015).

<sup>12</sup> Matt Soergel, *Huguenot Park kiteboarders worry they’ll no longer fly high at oceanfront park*, FLORIDA TIMES-UNION (May 27, 2014), <http://jacksonville.com/news/metro/2014-05-27/story/huguenot-park-kiteboarders-worry-theyll-no-longer-fly-high-oceanfront>.

<sup>13</sup> *Id.*

<sup>14</sup> See The Periscope Kings Bay, Georgia, *Important Info About Your Drinking Water*,

<http://kingsbayperiscope.jacksonville.com/military/mayport-mirror/2013-11-06/story/important-info-about-your-drinking-water> (last visited Mar. 4, 2015) (containing map of Naval Station Mayport). See also FAA Airport Diagrams, *Mayport NS (ADM David L. McDonald Field)*, <https://nfdc.faa.gov/nfdcApps/airportLookup/airportDisplay.jsp?airportId=NRB> (last visited Mar. 4, 2015). The general remarks about Mayport NS at this site caution that large vessels with masts of up to 150 feet frequently transit the channel of the St. Johns River immediately adjacent to the approach end of runway 23. As the river channel is closer to the Naval Station than Huguenot Park, this caution indicates the air traffic apparently would exceed an altitude of at least 150 feet or more above the park.

<sup>15</sup> Soergel, *supra* note 12.

<sup>16</sup> *Id.*

<sup>17</sup> Steve Patterson, *Huguenot fans want to exempt Jacksonville park from state law limiting kite-surfing*, FLORIDA TIMES-UNION (Oct. 16, 2014), <http://jacksonville.com/news/metro/2014-10-16/story/huguenot-fans-want-exempt-jacksonville-park-state-law-limiting-kite>.

<sup>18</sup> *Id.* (Statement from Mike Andrews, spokesman for the commander of Navy Region Southeast).

<sup>19</sup> Email from Matt Schellhorn, Community Planning and Liaison for Naval Station Mayport to Scott Shine, Member of the Jacksonville Waterways Commission, RE: Waterways (09/15/2014) (on file with Local Government Affairs Subcommittee).

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**B. SECTION DIRECTORY:**

Section 1: Creates an exemption to s. 327.37(6), F.S., for kiteboarding and kitesurfing in Huguenot Memorial Park, City of Jacksonville, Duval County; and describes the boundaries of Huguenot Memorial Park.

Section 2: Provides that the bill shall take effect upon becoming law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 18, 2014

WHERE? *Financial News & Daily Record*, a daily (except Saturday and Sunday) newspaper published in Duval County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 10, 2015, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment described and added the submerged lands and the waters surrounding and adjacent to Huguenot Memorial Park, in addition to the property description, to clarify the exemption created by the bill would apply to kiteboarding and kitesurfing in those waters.

This analysis is drawn to the bill as amended.